
From: Brenda L. Tavera <BTavera@DDSFFIRM.com>
Sent: Thursday, August 21, 2014 2:42 PM
To: 'Victoria.Reeder@usdoj.gov'
Cc: Berninger, Stephen; Karl.Fingerhood@usdoj.gov; jcstull@continentalht.com; 'trsvcs@hotmail.com'; Jennifer T. Taggart; 'polloklaw@aol.com'; Michael A. Francis
Subject: Continental Heat Treating - Tolling Agreement
Attachments: L - Reeder, Victoria (USDOJ) re CHT Tolling Agreement.08-21-14.pdf; Tolling Agreement (CHT - EXECUTED) (08-11-14).pdf

Ms. Reeder,

Please see attached letter and attachment from Michael A. Francis, Esq. in connection with the above-referenced matter. If questions arise, please contact Mr. Francis.

Thank you.

Brenda L. Tavera
Legal Secretary
DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP
700 South Flower Street, Suite 2325
Los Angeles, California 90017
Phone (213) 624-8407
Fax (213) 624-0174
Email: btavera@ddsffirm.com
<http://www.ddsffirm.com/>

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and as such is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

DEMETRIOU, DEL GUERCIO, SPRINGER & FRANCIS, LLP

ATTORNEYS AT LAW

700 SOUTH FLOWER STREET, SUITE 2325

LOS ANGELES, CALIFORNIA 90017-4209

(213) 624-8407

FAX (213) 624-0174

WWW.DDSFFIRM.COM

JEFFREY Z. B. SPRINGER
STEPHEN A. DEL GUERCIO
MICHAEL A. FRANCIS
BRIAN D. LANGA
JENNIFER T. TAGGART
LESLIE M. DEL GUERCIO
TAMMY M. J. HONG

CHRIS G. DEMETRIOU (1915-1989)
RONALD J. DEL GUERCIO (RETIRED)
RICHARD A. DEL GUERCIO (RETIRED)

SENDER'S EMAIL ADDRESS
MFRANCIS@DDSFFIRM.COM

SENDER'S DIRECT LINE
(213) 624-8407 EXT. 144

August 21, 2014

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED
AND E-MAIL – victoria.reeder@usdoj.gov**

Ms. Victoria Reeder
U.S. Department of Justice
Environmental & Natural Resources Division
Environmental Enforcement Section
301 Howard Street
Suite 1050
San Francisco, California 94105

Re: **Continental Heat Treating, Inc.
Tolling Agreement related to the Omega Chemical Corporation Superfund
Site ("Omega Site")**

Dear Ms. Reeder:

Enclosed are two duplicate originals of the "Tolling Agreement For Claims Under The Comprehensive Environmental Response, Compensation and Liability Act, Relating To The Omega Chemical Corporation Superfund Site" ("Agreement") that are signed by Mr. James C. Stull on behalf of Continental Heat Treating, Inc. ("CHT").

Also enclosed is a self-addressed stamped envelope to use to return a fully executed duplicate of the Agreement to me on behalf of CHT.

Please note that on August 8, 2014, I discussed the interlineated revisions to paragraph 9 of the Agreement with Mr. Karl Fingerhood. He expressed no objections to such revisions. I also discussed the need for CHT to receive a fully executed duplicate of the Agreement. Mr. Fingerhood suggested providing the enclosed self-addressed stamped envelope for such.

As explained to the United States Environmental Protection Agency ("EPA") in certain correspondence, CHT has resolved all claims regarding the Omega Site in a December 12, 2005 Administrative Order on Consent ("AOC"). Accordingly, CHT would like to meet with the

Ms. Victoria Reeder

August 21, 2014

Page 2

appropriate EPA and DOJ representatives as soon as possible to resolve any misunderstandings the United States may have regarding the scope of the CHT settlement as set forth in the AOC.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael A. Francis", with a long horizontal flourish extending to the right.

Michael A. Francis

MAF/blt

Enclosures

cc: Stephen Berninger, Esq. (w/enc.) (Via E-mail - berninger.stephen@epa.gov)
Karl Fingerhood, Esq. (w/enc.) (Via E-mail - karl.fingerhood@usdoj.gov)
Mr. James C. Stull (w/enc.) (Via E-mail - jcstull@continentalht.com)
Mr. Robert Schneider (w/enc.) (Via E-mail - trsrv@hotmai.com)
Jennifer T. Taggart, Esq. (w/enc.) (Via E-mail - jtaggart@ddsffirm.com)
Julian Pollok, Esq. (w/enc.) (Via E-mail - polloklaw@aol.com)

TOLLING AGREEMENT
FOR CLAIMS UNDER THE COMPREHENSIVE ENVIRONMENTAL
RESPONSE, COMPENSATION AND LIABILITY ACT,
RELATING TO THE OMEGA CHEMICAL CORPORATION SUPERFUND SITE

The United States, on behalf of the United States Environmental Protection Agency, contends that it has a cause of action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. §9601, *et seq.*, against Continental Heat Treating, Inc. ("Defendant") for, *inter alia*, the recovery of unreimbursed response costs at the Omega Chemical Corporation Superfund Site in Los Angeles County, California (the "Tolled Claims").

The United States and Defendant ("Parties") enter into this Tolling Agreement to facilitate settlement negotiations between the Parties within the time period provided by this Agreement, without thereby altering the claims or defenses available to any Party hereto, except as specifically provided herein.

The Parties, in consideration of the covenants set out herein, agree as follows:

1. Notwithstanding any other provision of this Tolling Agreement, the period commencing on August 1, 2014 and ending on July 31, 2015, inclusive (the "Tolling Period"), shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States on the Tolled Claims.
2. Any defenses of laches, estoppel, or waiver, or other similar equitable defenses based upon the running or expiration of any time period shall not include the Tolling Period for the Tolled Claims.
3. Defendant shall not assert, plead, or raise against the United States in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.
4. This Tolling Agreement does not constitute any admission or acknowledgment of any fact, conclusion of law, or liability by any Party to this Tolling Agreement. Nor does this Tolling Agreement constitute any admission or acknowledgment on the part of the United States that any statute of limitations, or similar defense concerning the timeliness of commencing a civil action, is applicable to the Tolled Claims. The United States reserves the right to assert that no statute of limitations applies to any of the Tolled Claims and that no other defense based upon the timeliness of commencing a civil action is applicable.
5. This Tolling Agreement may not be modified except in a writing signed by all the Parties. The Parties acknowledge that this Tolling Agreement may be extended for such period of time as the Parties agree to in writing.
6. It is understood that the United States may terminate settlement negotiations and commence suit at any time, upon provision of written notice by mail to defendant. Where the

United States elects to terminate negotiations under this Paragraph, the Tolling Period shall continue for the duration set forth in Paragraph 1. Nothing herein shall preclude the commencement of any action by the United States to protect the public health, welfare, or the environment without provision of advance notice.

7. This Tolling Agreement does not limit in any way the nature or scope of any claims that could be brought by the United States in a complaint against Defendant or the date on which the United States may file such a complaint, except as expressly stated herein.

8. This Agreement is not intended to affect any claims by or against third parties, or any claims that Defendant may have.

9. The Parties acknowledge that federal law imposes an obligation to implement a litigation hold when litigation is reasonably anticipated. ~~The Parties agree that at least as of the date of this agreement, they reasonably anticipate litigation over the Tolloed Claims.~~

the United States represents that it
10. This Tolling Agreement is effective upon execution by the Defendant, and without the requirement of filing with the Court, and may be signed in counterparts.

11. This Tolling Agreement contains the entire agreement between the Parties, and no statement, promise, or inducement made by any Party to this Tolling Agreement that is not set forth in this Tolling Agreement shall be valid or binding, nor shall it be used in construing the terms of this Tolling Agreement as set forth herein.

12. The undersigned representative of each of the Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Tolling Agreement and to legally bind such party to all terms and conditions of this document. This Agreement shall be binding upon the United States, acting on behalf of the United States Environmental Protection Agency and upon Defendant and its successors.

SIGNATURES

The United States, on behalf of the United States Environmental Protection Agency, consents to the terms and conditions of this Tolling Agreement by its duly authorized representatives on this ____ day of August, 2014.

HENRY FRIEDMAN
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
(with authority by Karl Fingerhood or Deborah Gitin)

Karl Fingerhood or Deborah Gitin
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice

Defendant consents to the terms and conditions of this Tolling Agreement by its duly authorized representative on this 11 day of August, 2014. The undersigned's consent is conditioned upon the United States providing the undersigned Defendant with a fully executed duplicate of this Tolling Agreement.

Continental Heat Treating, Inc.

Name: 

James C. Stull

Title: President